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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

PATRICIA ROSE WRIGHT,

Plaintiff and Appellant,

v.

CITY OF BURBANK et al.,

Defendants and Respondents.

B233594

(Los Angeles County
Super. Ct. No. EC053431)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Laura Matz, Judge. Affirmed.

Patricia Rose Wright, in pro. per., for Plaintiff and Appellant.

Amelia Ann Albano, City Attorney, Carolyn A. Barnes, Assistant City Attorney,
for Defendants and Respondents.

Plaintiff and appellant Patricia Rose Wright appeals from the judgment entered in favor of defendants and respondent City of Burbank, after respondent's demurrer was sustained without leave to amend. We affirm.

Facts and Discussion

On June 30, 2010, appellant filed a complaint against the City of Burbank¹ bringing a cause of action titled "discrimination on account of physical disability and age." Factually, the complaint alleged that on July 3, 2009, a Burbank police officer issued appellant a misdemeanor citation for sleeping in (or living in) her car, parked at a Burbank park, in violation of the Burbank Municipal Code. The complaint alleged that appellant was not sleeping or living in her car, that she suffered from chronic fatigue syndrome and fibromyalgia, and that her vehicle, a van conversion, was a medical necessity.

The complaint also included allegations about appellant's attempts to challenge the ticket in court. She went to the Burbank courthouse in advance of the date set in the citation, only to learn that the court took only the first five walk-ins each day. This was not stated on the citation. Her first attempt was thus unsuccessful, as was the second, and each attempt constituted a hardship. On the third occasion, she was sent to a courtroom, where she was badgered by the City Attorney, another hardship.

Trial was set for September 30, 2009, but on that date was continued. The complaint alleges that trial was set for October 30, 2009, but although the complaint is dated June 30, 2010, the result of the trial is not pled. In her reply brief on appeal, appellant informs us that the citation was dismissed after trial.

The complaint also included allegations about an assault against appellant in December 2007.

¹ On that date, she filed an identical complaint against the Burbank Police Department. That case was later dismissed by the court, after a demurrer was granted without leave to amend.

Appellant sought \$100,000 in damages, specifying that the sum should be paid by the police officer who issued the citation, the deputy city attorney who harassed her, and the bench officer of September 30, and not by Burbank taxpayers.

The City demurred. The court sustained the demurrer on numerous grounds, including failure to allege compliance with the Government Claims Act (Gov. Code, § 900 et seq.), and gave appellant leave to amend.

The amended complaint brought causes of action titled discrimination, disability and age, harassment, hardship, infliction of emotional distress, pain and suffering, 14th amendment, 5th amendment, and 42 USC chapter 126 § 12132. Factually, this complaint alleges that the parking ticket was an attempt to distract appellant from a wrongful termination suit she was pursuing and includes a chronology of numerous events, beginning with a July 2006 parking ticket, and including notation of a December 2007 assault, entries concerning the citation underlying this litigation, entries concerning this litigation, and entries concerning other litigation.

The amended complaint did not allege compliance with the Government Claims Act. Respondent demurred, and this time the demurrer was sustained without leave to amend on the ground, inter alia, that the complaint did not allege facts demonstrating or excusing compliance with the claims presentation requirement of the Government Claims Act.

It is settled that a plaintiff must allege facts demonstrating or excusing compliance with the claim presentation requirements of the Government Claims Act (Gov. Code, §§ 911.2, 915). "Otherwise, [her] complaint is subject to a general demurrer for failure to state facts sufficient to constitute a cause of action." (*State of California v. Superior Court* (2004) 32 Cal.4th 1234, 1243.)

Appellant did not allege compliance with the Act, and on appeal makes no argument on the point. (*Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785.)

The judgment is thus affirmed.

Disposition

The judgment is affirmed. Each party to bear its own costs on appeal.

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ARMSTRONG, J.

We concur:

TURNER, P. J.

KRIEGLER, J.